



EXHIBIT 1

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## **COLLECTIVE BARGAINING AGREEMENT**

THIS AGREEMENT made and entered into as of the first day of July 1, 2005 by and between CENTRAL COAST COUNTIES FLOOR COVERING ASSOCIATION and the NORTHERN CALIFORNIA FLOOR COVERING ASSOCIATION on behalf of their regular members who have authorized their inclusion in the coverage of this contract and on behalf of any Employers who in the future may authorize their inclusion in the coverage of this contract, INDEPENDENT Floor Covering Employers signatory hereto, each of whom is hereinafter referred to as the "EMPLOYER", and DISTRICT COUNCIL 16, CARPET, LINOLEUM AND SOFT TILE WORKERS, LOCAL UNION 12 and CARPET, LINOLEUM AND SOFT TILE WORKERS, LOCAL UNION 1237 of the International Union of Painters and Allied Trades, AFL-CIO, hereinafter referred to as the "Union".

### **WITNESSETH:**

WHEREAS, the Union and the Employer, in the interest of the general public, desire the maintenance of a sound and harmonious relationship between them for the future,

NOW, THEREFORE, the parties hereto agree as follows:

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## **ARTICLE 1 JURISDICTION**

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1. By way of illustration and not limitation, the jurisdiction applies to all work including and related to the installation of resilient floor, wall, and ceiling materials commonly referred to as carpet, linoleum, vinyl, rubber, cork, asphalt, vinyl composite mastipave, synthetic grass, prefinished hardwood, laminates, engineered wood, all applications of pre-finished and laminate floors, epoxy, urethane, plastics, metal, and all similar materials in sheet, tile, or liquid form.

Installation on floors, walls, ceilings, stairs, fixtures, furnishings, or exterior applications on structures, patios, pool perimeters, sport fields, area ways, all other like or similar applications, whether permanent or temporary.

Measuring, cutting, fabrication, packaging, pickup, delivery and handling of materials and tools that are used by the floor covering industry.

Preparatory removal of floor covering, wall covering, adhesive and underlayments. The sanding, patching, sealing, and priming of the installation surface.

Installation of lining felt, carpet, pad, underlayment compositions, leveling compounds, or any material used as a base for the finished surface.

Applications and fitting of fasteners, protective and decorative trim relating to the installation such as tackless, tape, nosing, top set or butt-to-base, cap, corner beads, edging, hinging, and all other accessories, and related sundries.

Repair, finishing, coating, sculpturing, insets, and such other processes relating to the industry.

2. The terms and conditions contained in this Agreement shall apply uniformly to all such work performed within the territorial jurisdiction of the Union.

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## **ARTICLE 2 OWNER MEMBERS**

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1. Owner Members are proprietors, partners or corporate owners or officers or anyone participating in the management of the Employer, but who also performs work pursuant to this Agreement and who has applied for and been granted Owner Member status by the Union. There shall be only two (2) Employer members for each Employer. The Employer shall pay fringe benefit contributions on all hours worked subject to the provisions of the appropriate trust documents, and the Owner Member shall be subject to the provisions of Article 4 of this Agreement, Union Security.
2. Only two (2) Owner Members from each signatory Employer shall be permitted to work with the tools of the trade and only if such signatory Employer employs at least one (1) other employee covered under this Agreement. An Owner Member shall not be permitted to work any overtime in other than a supervisory capacity.
3. Any worker or applicant for employment, who has or who obtains a Floor Covering Contractor's License, shall inactivate such license before seeking or accepting employment under the terms of this Agreement or he shall not work or be dispatched by the Union.
4. No Employer signatory to this Agreement shall be allowed to work for any other Employer as a worker



on the payroll of such Employer. No worker shall be recognized as an Employer until he becomes signatory to this Agreement.

### **ARTICLE 3 HIRING AND DISPATCHING**

1. Employers shall secure employees in classifications covered by this Agreement from the Union hiring hall. The Union shall maintain a nondiscriminatory hiring hall and shall maintain accurate employee availability lists. There shall be no discrimination in hiring and/or promotion and/or any other aspects of employment because of race, creed, color, sex, national origin or age.
2. If the Union is unable to supply qualified workers within twenty-four (24) hours after request, the Employer shall have the right to hire from any source whatsoever.
3. The Employer shall require each new employee to present a written referral from the Union or shall call the Union office to request a written referral prior to putting the new employee to work.
4. Each written referral shall designate in which category or categories of the trade the worker is classified or may be employed.
5. The Employer may request specific workers by name and such workers will be dispatched to such Employer provided such workers are available for employment and are registered with the Union.
6. In the event no specific workers are requested by name, the Union will dispatch workers in the order in which they are registered from the lists on which they are registered.

7. Every employee reporting for work within the scope of this Agreement shall have the appropriate tools of the trade for the phase of the craft for which he is reporting. Each worker shall procure and maintain the required tools at their own expense. The listing of appropriate tools of the trade are as set forth below:

**(a) Employee Furnished:**

*Carpet Tools:*

Awl, Base Mold lifter, Carpenter's Hammer, Carpet Knife, Chalk Line, Hack Saw, Knee Kicker, Mitre Box, Needle (straight & curved), Screwdrivers (Flat & Phillips), Sharpening Stone, Shears (carpet), Snips (metal), Spreaders, Stair Tool, Stanley Knife, Staple Gun (padding), Strip Cutters, Tack Hammer, Tape Measure (25'), Thimble(s), Tool Box, Trimmer, 6' Straight Edge, Heat Seaming Iron.

*Hard Surface Tools:*

Awl, Base Mold Lifter, Carpenter's Hammer, Chalk Line, Corner Scribe, Under Scribe, Dividers, Files, Fox Tail Brush, Hack Saw, Hook Knife, Linoleum Knives, Mitre Box, Nail Set, Notched Spreader, Pin Scribe, Scraper (broad knife), Screwdrivers (flat and Phillips), Sharpening Stone, Single Arm Roller (band), Snips (metal), Stanley Knife, Straight Edge (6'), Tape Measure (25') and Tool Box.

**(b) Employer Furnished as applicable to specific job or trade practices:**

Floor Sanders, Edger, Hand Trucks, Dollies, Linoleum Roller (in excess of 25 lbs), Hard Hats, Heat Seaming Iron, Power Stretcher, Power Saw, Power Seam Cutter, Power Stapler, Spot Nailer, Reserve Propane Tank, Safety Glasses and Tile Remover, Trowels (notched and finished), Tapes (50' & 100'), Torch, 12" Tile Cutter, Expendable

Supplies to include, but not limited to, Blades (of any kind), Brads, Propane Gas, Nails, Pins, Screws, Staples and all vinyl welding tools, equipment and supplies, Customary Heat Seaming Iron to be furnished if employee's iron is not the shop standard.

8. The Union agrees that the Employer is in no way bound to keep in his employ any worker who proves to be incompetent and/or unsatisfactory in the branch of trade for which he or she is hired. When an employee is hired and is found to be incompetent or unsatisfactory, he or she, upon his or her discharge, shall be paid for the actual time worked.
9. No individual Employer shall work as a working employee for any other Employer. No employee may be loaned or transferred by an Employer to another shop unless reported to the Union.

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#### **ARTICLE 4**

#### **UNION RECOGNITION**

#### **& UNION SECURITY**

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1. The employer recognizes, acknowledges and agrees that it has satisfied itself that District Council No. 16 represents a majority of its employees employed to perform bargaining unit work and that the Union is that collective bargaining representative for such employees. The Contractor specifically agrees that the Union has offered to demonstrate its majority status or has done so and it is establishing or has established a collective bargaining relationship within the meaning of Section 9(a) of the National Labor Relations Act by this Agreement and/or by the execution of previous Agreements.

2. It shall be a condition of employment that all Journeyman and Apprentices covered hereby shall become and remain members in good standing of the Union on or after eight (8) days employment whether continuous or accumulative. It shall be a condition of employment that all Floor Covering Handlers and Trainees covered hereby shall become and remain members in good standing of the Union on or after thirty-first (31st) day of employment whether continuous or accumulative.
3. All workmen accepted into membership shall thereafter maintain their continuous good standing in the Union as a condition of employment by paying regular monthly union dues and admission fees uniformly paid by other members in the same classification in the Union in accordance with its rules.
4. In the event that a workman fails to render the admission fee or that a member of the Union fails to maintain his membership in accordance with the provisions of this section, the Union shall notify the Employer, in writing, and such shall constitute a request of the Employer to discharge said individual workman within forty-eight (48) hours after receipt.
5. In the event the Employer fails or refuses to discharge said individual workman immediately after being notified by the Union, the Union shall be free to remove all workers from working for this Employer until said individual workman is discharged. If the Union chooses to withdraw all workers as authorized in this Section, it shall not constitute a violation of any actual or implied "no strike" obligation under this Agreement.

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## **ARTICLE 5 PICKET LINES**

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Employees covered by this Agreement shall have the right to respect any legal primary picket line validly established by any bona fide labor organization, and the Union party to this Agreement has the right to withdraw employees covered by this Agreement whenever the Employer party to the Agreement is involved in a legitimate primary labor dispute with any bona fide labor organization. It shall not be a violation of this Agreement, and it shall not be cause for discharge or disciplinary action, in the event an employee refuses to enter upon any property involved in a lawful primary labor dispute, or refuses to go through or work behind any lawful primary picket line of the Union party to this Agreement, and including lawful primary picket lines at the Employer's own place of business or jobs.

1. Recognizing the "Special problems" in the Construction Industry based upon the close relationship between contractors and subcontractors at the job site of the construction, alteration, painting, or repair of a building, structure, or other such work and the friction that is created when Union and non-union employees are required to work side-by-side, it shall not be a violation of this Agreement and it shall not be a cause for disciplinary action or discharge in the event an employee refuses to enter upon any such construction site where non-union employees are employed and which would require the employee to work "shoulder-to-shoulder" or along side the non-union employee or employees, or refuses to remain on such a job site when non-union employees are engaged in such construction on the job site. This clause shall apply only to job sites where the Union's members are working, whether it be on a construction site of the Employer or at any other job site.

2. If any employee leaves the job site due to Article 5, no Employer shall be held responsible for wages or fringe benefits after such action has been taken.

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## **ARTICLE 6 EMPLOYERS**

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1. As a condition precedent to qualifying as an Employer under this Agreement every Employer shall:
  - (a) Have a designated principal place of business located in a zone permissible for the operation of said business, as required by the laws or ordinances of the area in which said business is located; and
  - (b) Have a business telephone listed in the firm name of the signatory Employer with such a telephone installed at the principal place of business to facilitate contacting said Employer for the purpose of administering this Agreement. An Employer may utilize an answering service with the telephone installation requirement of this subsection; and
  - (c) Have an appropriate State of California Floor Covering Contractor's License, effectively in his possession to employ workmen under this Agreement and have fulfilled the requirements of all Federal, State, County, and City laws applicable to the operation of the Employer's business; and
  - (d) Have adequate Workmen's Compensation Insurance, which insurance coverage shall be evidenced by a Certificate of Insurance, which the Employer shall keep currently at his principal place of business.



- (e) No job site shall be recognized as a principal place of business under any circumstances.
2. The Employer agrees that they will not subcontract any work covered by this Agreement to be done at the site of construction, alteration, painting or repair of a building, structure or other work except to a person, firm or corporation signatory to an existing current labor agreement with the Union. This Agreement will not limit the Employer's ability to originate contracts for goods and services. Furthermore, it is expressly understood and the Employer agrees that beyond the general contractor and or any of the entities whomever that are signatories to an existing, current labor agreement with this Union, there will be no subcontracting.
  3. The individual Employer will give written notice to the Union of any subcontract involving the performance of work covered by this Agreement prior to commencement of work by the subcontractor, and shall specify the name and address of the subcontractor, the name and address of the work and the start date of the work. If thereafter the subcontractor becomes delinquent in the payment of any wages, trust fund contributions, or other fringe benefit payments, the Union shall give written notice of the delinquency to the individual Employer and to the subcontractor. The notice shall specify the name(s) and amounts, if known, of the delinquency. When the notice of delinquency is received, the individual Employer shall pay the amount of the subcontractor's delinquency which has occurred on the individual Employer's specific job.
  4. It is expressly understood that this Article shall apply to all present and subsequently acquired operations of the Employer and to all accretions to the bargaining unit, including, but not limited to, newly established or acquired operations.

5. The Employer shall provide the customary shop equipment and shop supplies. The Employer shall provide such tools as is set forth in Article 3, Section 7(b). All workmen agree to care for all Employer furnished tools as if they were their own. Where a reasonable charge out system is employed, and where the tools are appropriately identified as the Employer's, the workman is to be responsible for such lost or damaged, (normal wear and tear excepted) Employer furnished tools.

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## ARTICLE 7

### SAFETY LAWS, REGULATIONS AND REQUIREMENTS

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1. The Employer shall abide by, and require all employees to abide by, all Health & Safety Provisions, Rules and Regulations of any and all Municipal, State and Federal Agencies having issuing authority in the pertinent field of work being performed by the Employer signatory to this Agreement.
2. No employee shall be required to lift an unreasonable amount of weight without suitable assistance. Such suitable assistance may be either another person covered by this Agreement or appropriate equipment. This provision shall apply whether at the Employer's shop or at the area or job site where any material covered by this Agreement is to be installed.
3. The parties to this contract recognize the problems which drug and alcohol abuse have created in the construction industry and the need to develop drug and alcohol abuse prevention programs. Accordingly, the parties agree that in order to enhance the safety of the work place and to maintain a drug and alcohol free work environment, individual Employers may

require applicants or employees to undergo drug and alcohol testing. The parties agree that if a testing program is implemented by an individual Employer, the following will apply:

- (a) It is understood that the use, possession, transfer or sale of illegal drugs, narcotics or other unlawful substances and alcohol, are absolutely prohibited while employees are on the Employer's job premises or working at any job site.
- (b) All applicants for employment will undergo a drug and alcohol screen at a facility agreed upon by the employer and the Union. The Employer agrees to pay each applicant or employee who takes and passes the drug and alcohol screen test, for all the time it takes to undergo the testing, up to a maximum of two (2) hours travel time, plus lab time. Applicants not passing the drug and alcohol screen will not be placed on the Employer's payroll. The Employer agrees to pay for the cost of administering the drug and alcohol screen. Employees who test positive may request that they be given a Chromagraphic Mass Spectrometer Test. The Employer is responsible for the payments of this test. If the employee does not pass this test, the Employer will not be responsible for the payment of time lost while being tested.
- (c) Applicants for employment who do not test positive shall be paid for all time lost per paragraph (b) above. Payments shall be at the applicable wage and benefit rate set forth herein. It is understood that an applicant must pass the drug and alcohol screen test, as a condition of employment. Applicants who are put to work pending the results of a test will be considered probationary employees and may be terminated immediately if the test is positive.
- (d) The Employer may test an employee where the Employer has reasonable cause to believe that the employee is impaired from performing his/her job. Reasonable cause shall be defined as being aberrant or unusual behavior, the type of which is a recognized and accepted symptom of impairment (i.e. slurred speech, unusual lack of muscle coordination, etc.). Such behavior must be observed by two (2) persons. An employee who refuses to take a test must be immediately discharged.
- (e) An Employer may require that employees involved in an accident resulting in damage to the plant, property, equipment or injury to himself/herself or to others, may be tested for drugs and alcohol.
- (f) There will be no random drug and alcohol testing by the participating Employer.
- (g) An employee who is using prescribed medication that might affect his/her job performance or safety, must inform their supervisor.
- (h) Employees, if tested positive, shall have the prerogative for a rehabilitation program at the employee's expense. When such program has been successfully completed, the Employer shall not discriminate in any way against the employee. If work which the employee is qualified exists, he/she shall be reinstated.
- (i) Any testing which is done must be done by a National Institute on Drug Abuse certified laboratory, chosen by the Employer and the Union.
- (j) The Employer agrees to hold the Union harmless from any claim arising out of the implementation of this drug testing program.

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## ARTICLE 8

### TERRITORIAL JURISDICTION OF AGREEMENT AND OUT OF AREA WORK

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#### 1. Territorial Jurisdiction

The territorial jurisdiction covered by this Agreement shall be comprised of the Northern California Counties of:

Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Glenn, Lake, Lassen, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Joaquin, San Mateo, Santa Clara, Santa Cruz, San Francisco, Siskiyou, Shasta, Sierra, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo, and Yuba (with the exception of the Tahoe Basin).

#### 2. Out-of-Area Work

The Employer party hereto shall, when engaged in work outside the geographic jurisdiction of the Union party to the Agreement, comply with all of the lawful clauses of the collective bargaining agreement in effect in said other geographic jurisdiction and executed by the Employers of the industry and the affiliated Local Unions in that jurisdiction, including but not limited to, the wages, hours, working conditions, fringe benefits and procedure for settlement of grievances set forth therein; provided however, that as to employees employed by such Employer from within the geographic jurisdiction of the Union party to this Agreement and who are brought into an outside jurisdiction, such employee shall be entitled to receive the wages and conditions effective in either the home or outside jurisdiction, whichever are more

favorable to such employees, and fringe benefit contributions on behalf of such employees shall be made solely to their home funds in accordance with their governing documents. This provision is enforceable by the Local Union or District Council in whose jurisdiction the work is being performed, both through the procedure for settlement of grievances set forth in its applicable collective bargaining agreement and through the courts, and is also enforceable by the Union party to this Agreement both through the procedure for settlement of grievances set forth in this Agreement and through the courts.

(a) The contractor or the Employer party to this Agreement, when engaged in work outside the geographical jurisdiction of the Union party to this Agreement, shall employ not less than fifty percent (50%) of the workers employed on such work from the residents of the area where the work is performed, or from among persons who are employed the greater percentage of their time in such area.

(b) Employers signatory to this Agreement shall not attempt to engage in any work covered by this Agreement in any area outside the geographical jurisdiction of the Agreement through the use or device of another business or corporation which such Employer controls or through the use or device of a joint venture with another Employer or contractor in any outside area without first consulting with the Union for the purpose of establishing to the Union's satisfaction that the use of such device is not for the purpose of taking advantage of lower wages or conditions that are in effect in the home area of such Employer, and if the Union is not so satisfied, the Union has the option of canceling the Agreement.

### 3. Out-of-Area Employers

Employers from outside the jurisdictional area of the Union party to this Agreement shall employ not less than 50% of the workers from the Local Union having the work and area jurisdiction of the job site. All jobs must maintain at least 50% - 50% ratio.

- (a) When an Employer who's principal place of business is outside the jurisdictional area of the Union party to this Agreement and said Employer brings steady employees from the outside area, the employees shall not go to work until they have a referral slip from the Union party to this Agreement.

## **ARTICLE 9 HOURS OF WORK AND OVERTIME**

1. The normal work week for each employee will be forty (40) hours per week, Monday through Friday.
2. The work day shall be eight (8) consecutive hours between 5:00 a.m. and 5:00 p.m. with one-half (1/2) hour without pay being allowed for lunch.

- (a) Four ten hour days paid at the straight-time rate with one-half (1/2) hour without pay being allowed for lunch Monday through Friday shall be permitted only where it is required by a project agreement through the local Building and Construction Trades Council. With concurrence of the employee(s) of an individual Employer, the starting time and quitting time may be varied upon prior approval of the Union.

- (b) The provisions of shift work shall be applicable

only to work performed on commercial replacement and/or remodel work and not on new construction or housing. All commercial jobs must be zoned commercial.

- (1) Shift work will be paid at 1-1/3 times the basic Wage Rate for eight (8) hours work.
  - (2) The Employer must notify the Union before starting any shift work operation, of the location of the job and names of the employee(s) who will perform the work. A written shift work permit shall be secured from the Union prior to performing any shift job by the Employer or his representative and signed by the men on the job.
  - (3) Participation of employees on shift work will be on a voluntary basis. No member shall be discriminated against by the Employer for refusing shift work.
  - (4) Any employee who has already worked during a normal day as specified in the Master Agreement (that is, within the eight (8) hour day between 5:00 a.m. and 5:00 p.m.) shall not be permitted to also work a shift work job in the same day.
  - (5) A shift work job can start on Sunday evening and end on Friday morning or Monday evening and end on Saturday morning.
  - (6) A shift work job may start only between the hours of 5:00 PM and 11:00 PM. No job being worked on during regular day hours can continue as a shift work job.
3. Overtime hours worked prior to or after the normal work day, Monday through Friday, shall be paid at one and one-half (1&1/2) times the minimum Base Wage Rate. All work performed on Saturday shall be

paid at least at one and one-half (1&1/2) times the minimum base wage rate. All work performed on Sunday will be paid at least at two (2) times the minimum base wage rate. All hours worked in excess of twelve (12) hours in one (1) day, Holidays, Designated Days Off and four (4) day holidays as listed in Article 11 Holidays and Designated Days Off, and all hours worked in excess of eight (8) on Shift Work shall be paid at two (2) times the minimum Base Wage Rate.

4. Designated Days Off, Saturdays, Sundays, and Holidays, when worked, employees shall be employed for not less than two (2) hours.
5. The Employer shall obtain an overtime permit from the Union prior to the commencing of any overtime work. Whenever an overtime permit is requested under this Section by the Employer, its issuance shall not be unreasonably withheld by the Union.
6. Unless employees are given notice, individually, within two (2) hours after their regular shift, that their services are not required the following regular work day, all employees reporting for work, shop or job site, at their regular starting time shall be paid two (2) hours pay, except when weather, natural conditions, or emergency situation beyond the control of the Employer prohibits the Employer from proceeding with work that day. As a condition to being entitled to receive pay under this Section, the employee must have his current telephone number and address on file with the Employer. The prior notice to the employee provided for in this Section may be given in person, writing, by telephone or telegraph.
7. When commencing work on any day, Monday through Friday, employees governed by this Agreement shall be employed for not less than eight (8) hours per day. However, any employees reporting for

work after their regular starting time shall be paid only for the hours worked, but not less than four (4) hours. When employees leave a job, at their own discretion, they shall be paid only for the hours worked. When weather, natural conditions, or emergency situation beyond the control of the Employer prevents a full day's work, the hours worked shall be paid for, but not less than four (4) hours. It shall be incumbent upon the employee to notify their Employer immediately upon being advised of the emergency.

8. Workmen shall receive wages only for the actual time worked on his initial day of dispatch by the Union. Computation of hours worked shall be from the time the workman reports for work at Employer's designated place of business.

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## ARTICLE 10

### WAGES AND CLASSIFICATIONS

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1. There shall be three (3) classifications covered by this Agreement:

Journeyman  
Apprentice  
Floor Covering Handler

The hourly minimum Total Package of Wages for each classification shall be as follows.

2. **Journeyman**

The term Journeyman means a person who has served a bona fide apprenticeship or has an apprenticeship certificate or who is qualified by experience and ability to perform work with tools and machines as is necessary in the performance of skilled floor covering work. The hourly minimum rate of wages for Journeyman shall be:



Effective July 1, 2005 total package \$48.97 per hour\*  
 Effective January 1, 2006 total package \$49.62 per hour  
 Effective July 1, 2006 total package \$50.97 per hour\*  
 Effective January 1, 2007 total package \$51.62 per hour  
 Effective July 1, 2007 total package \$52.97 per hour\*  
 Effective January 1, 2008 total package \$53.62 per hour

\*Effective July 1, 2005 a total of \$0.70 shall be allocated to the Resilient Floor Covering Pension Fund for the sole purpose of deficit reduction. Effective July 1, 2006 a total of \$1.40 shall be allocated to the Resilient Floor Covering Pension Fund for the sole purpose of deficit reduction. Effective July 1, 2007 a total of \$2.10 shall be allocated to the Resilient Floor Covering Pension Fund for the sole purpose of deficit reduction.

- (a) When five (5) or more employees covered under this Agreement are on a job for a five (5) days duration or more, the Employer shall designate one (1) working Journeyman, in good standing with the union, as their Leadman, for the duration of the job. The definition of "Duration of the Job" is the primary contract and does not include change orders or call backs, providing that none of the exceptions require three (3) or more employees or more on each separate operation. The Leadman shall receive two dollars (\$2.00) per hour above the Journeyman Total Package Wage.

### 3. Apprentice

Apprentices shall be paid a progressive increasing scale of wages based on a percentage of Journeyman's Base Wage Rate as follows:

1st six (6) months: . . . . . 50%  
 2nd six (6) months: . . . . . 55%  
 3rd six (6) months: . . . . . 60%

4th six (6) months: . . . . . 65%  
 5th six (6) months: . . . . . 70%  
 6th six (6) months: . . . . . 75%  
 7th six (6) months: . . . . . 80%  
 8th six (6) months: . . . . . 90%

Apprentices shall receive full benefits except Vacation/Holiday and Pension contributions shall be based on their respective percentage of Journeyman's contributions.

- (a) The employment of Apprentices shall be in accordance with the following ratio: One (1) Apprentice to each three (3) regularly employed Journeymen or fraction thereof. In the event of layoff, the ratio of remaining Apprentices to Journeymen shall not exceed the ratio as stipulated above.
- (b) No Apprentice shall be recognized as an Employer, nor shall he be allowed to work as a foreman or supervise any other workmen. Where special conditions warrant, an Apprentice in his last six (6) months of training may be allowed to work alone, providing his school and shop records are satisfactory and permission is granted by the Union.

### 4. Floor Covering Handlers

Floor Covering Handlers whether full or part-time are considered casual and intermittent and may pickup, deliver, handle materials utilized by employers, pickup and deliver shop tools, sweep floor, clean floor coverings, remove debris after completion of installation, and place materials on the job site, but may not work with the tools of the trade. The hourly minimum rate of wages for Floor Covering Handlers shall be 40% of the Basic Wage Rate of a Journeyman. Floor Covering Handlers shall receive full Journeyman benefits except Vacation/Holiday and Pension contributions which shall be 40% of the Journeyman

contribution. After three (3) years of employment the above referenced percentages shall increase to fifty percent (50%).

#### **5. Floor Covering Handlers Trainee**

Floor Covering Handlers Trainees shall be paid a progressive increasing scale of wages based on a percentage of Floor Covering Handlers Base Wage Rate as follows:

1st three (3) months: . . . . . 80%

2nd three (3) months: . . . . . 90%

Floor Covering Handlers Trainees shall receive full benefits except Vacation/Holiday and Pension contributions shall be based on their respective percentage of Floor Covering Handlers contributions.

6. No employee presently covered under this Agreement shall suffer a reduction in wages or benefits as a result of this Agreement whether retained by the same Employer or employed by a new Employer.

7. Any Journeyman may be permitted to work for less than journeyman scale while receiving retraining, but must first obtain permission from the Union. Permission may be granted only upon agreement of the Union, the Employer and the employee. Beneficial, partial beneficial, non-beneficial and honorary members of the Union, whose age or physical condition debars them from earning the current rate of wages, shall be permitted to work for less, but must first obtain permission from the Union before doing so.

8. During the term of this Agreement the Union and/or Trustees may request in writing an increase or decrease in the contribution rates required to a particular benefit fund or funds and a corresponding reduction or increase in the minimum hourly wage rates set forth in Schedule A. Such request shall be

made in writing at least thirty (30) days prior to the proposed effective date of the change. The Employer will honor such request as of the effective date requested by the Union. As of such date the hourly minimum wage rates set forth in Schedule A of this Agreement shall be reduced or increased in an amount equal to the increase or decrease required of the Employer to the particular benefit fund or funds. In any event the employers Total Package Wage Rate shall not be more than those amounts set forth in this Agreement.

### **ARTICLE 11 HOLIDAYS AND DESIGNATED DAYS OFF**

1. Holidays are defined as follows: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day after and Christmas day. If a holiday falls on a Sunday, it shall be observed the following Monday. If a holiday falls on a Saturday, same shall be observed on the preceding Friday. No work under any circumstances shall be permitted on Labor Day.

2. **DESIGNATED DAYS OFF** – In addition to the foregoing recognized holidays, there shall be six (6) Designated Days Off per year as designated below:

July 1, 2005, September 2, 2005, February 17, 2006, April 14, 2006, May 26, 2006, June 16, 2006, July 3, 2006, September 1, 2006, February 16, 2007, April 6, 2007, May 25, 2007, June 15, 2007, July 5, 2007, August 31, 2007, December 24, 2007, February 15, 2008, March 21, 2008, May 23, 2008.

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## **ARTICLE 12 VACATIONS**

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1. The parties agree that, contributions to the Holiday and Vacation Fund shall be transmitted to the current administrator who thereupon will deposit the money in the bank. These contributions shall be made to a bank in the name of each individual worker and the bank shall set individual accounts for each employee. Interest on the accounts shall be paid to the employee.
2. Vacations shall be taken at a time mutually agreed upon by the Employer and employee.
3. The contribution rate shall be set forth in Schedule A and shall be paid on all hours worked.

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## **ARTICLE 13 STEWARDS**

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### **1. Appointment**

The District Council shall be empowered to appoint and remove all shop and/or job stewards as required in any shop or job of an Employer signatory to this Agreement. Stewards shall be competent Journeypersons currently employed by the Employer at the time of appointment.

### **2. Duties**

Such duties shall include monitoring the provisions of this Agreement, checking all working cards of Foreman, Journeyperson and Apprentices and to check all applications, working permits, and to report the same by the use of Steward's Report to the

Business Representative of the Union. Steward shall work with the tools as well as doing the duties assigned by the Union.

### **3. Reporting**

The Steward shall report to the Business Representative of the Union and to the Employer or his Representative, any and all violations of this Agreement. All matters of consequence pertaining to jurisdiction, alleged grievances due to unfair treatment by the Employer, are to be reported to the Union for action as may be deemed necessary.

### **4. Layoff**

The Steward shall be the last employee laid off provided he/she is qualified and able to perform the available work.

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## **ARTICLE 14 JOINT APPRENTICESHIP AND TRAINING TRUST**

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1. There has been established an Apprenticeship Agreement and Declaration of Trust Fund. The Union and the undersigned Employers agree that the Northern California Floor Covering Joint Apprenticeship and Training Trust Fund as the established Trust Fund referenced to in Article 14 of this Collective Bargaining Agreement. Effective on the date of this Agreement, all contributions for Apprenticeship Training referenced in Schedule A will be remitted to the Northern California Floor Covering Joint Apprenticeship and Training Trust Fund. The detailed basis of the administration of the Apprenticeship Fund shall be pursuant to the agreements and trust declarations adopted by the Associations and the Union,

which shall be binding upon all Employers' signatory to or bound by this Agreement. The Employer hereby agrees to be bound as a party to the terms and provisions of the trust establishing the Apprenticeship Trust Fund, and said Agreement is made a part hereof by reference. Employer acknowledges receipt of the Trust Agreement for said fund, and irrevocably appoints and designates the present Employer trustees and their successors as its agents.

2. The employment and supervision of personnel to administer the program shall be the responsibility of the trustees of the Apprenticeship and Training Fund.
3. The contribution rate shall be set forth in Schedule A and shall be paid on all hours worked.
4. We hereby establish under this Collective Bargaining Agreement a provision for affiliation with the IUPAT Joint Apprenticeship and Training Fund (IUPAT-JATF) and further provide a minimum contribution of five cents (\$.05) per hour for each Journeyman and Apprentice employee covered under this Agreement.

## ARTICLE 15 JOINT APPRENTICESHIP AND TRAINING COMMITTEE

1. The Joint Apprenticeship and Training Committee shall consist of an equal number of members appointed respectively by the Associations, Independent Floor Covering Employers and the Union.
2. The duties of the Joint Apprenticeship and Training Committee may include, but are not limited to:
  - (a) Selection of applicants as provided for in selection procedures registered and approved by the State of California;

### JULY 1, 2005 – DECEMBER 31, 2005

#### JULY 2005

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#### AUGUST 2005

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#### SEPTEMBER 2005

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#### OCTOBER 2005

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#### NOVEMBER 2005

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#### DECEMBER 2005

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○ = LEGAL HOLIDAYS

□ = DESIGNATED DAYS OFF

## JANUARY 1, 2006 – DECEMBER 31, 2006

## JANUARY 2006

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## FEBRUARY 2006

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## MARCH 2006

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## APRIL 2006

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## MAY 2006

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## JUNE 2006

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## JULY 2006

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## AUGUST 2006

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## SEPTEMBER 2006

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## OCTOBER 2006

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## NOVEMBER 2006

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## DECEMBER 2006

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○ = LEGAL HOLIDAYS    □ = DESIGNATED DAYS OFF

## JANUARY 1, 2007 – DECEMBER 31, 2007

## JANUARY 2007

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## FEBRUARY 2007

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## APRIL 2007

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## MAY 2007

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## JUNE 2007

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## JULY 2007

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## AUGUST 2007

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## SEPTEMBER 2007

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## OCTOBER 2007

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## NOVEMBER 2007

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## DECEMBER 2007

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○ = LEGAL HOLIDAYS    □ = DESIGNATED DAYS OFF



## JANUARY 1, 2008 – JUNE 30, 2008

JANUARY 2008							FEBRUARY 2008						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
		1	2	3	4	5						1	2
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13	14	15	16	17	18	19	10	11	12	13	14	15	16
20	21	22	23	24	25	26	17	18	19	20	21	22	23
27	28	29	30	31			24	25	26	27	28	29	
MARCH 2008							APRIL 2008						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
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9	10	11	12	13	14	15	13	14	15	16	17	18	19
16	17	18	19	20	21	22	20	21	22	23	24	25	26
23	24	25	26	27	28	29	27	28	29	30			
30	31												
MAY 2008							JUNE 2008						
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4	5	6	7	8	9	10	8	9	10	11	12	13	14
11	12	13	14	15	16	17	15	16	17	18	19	20	21
18	19	20	21	22	23	24	22	23	24	25	26	27	28
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○ = LEGAL HOLIDAYS

□ = DESIGNATED DAYS OFF

- (b) Supervise the training of Apprentices under a program as defined by the Trustees and Trust Document.
  - (c) Supervise the training and upgrading of Journeymen. More specifically, the Committee shall develop and provide Journeyman upgrade and training programs that increase the knowledge, skills and job opportunities for the Journeymen.
  - (d) The JATC shall develop a database of all active members skill classifications. This will be accomplished by conducting a survey of the Employers and active membership, on an ongoing basis, to ascertain the members skill classification within the various applications of our craft.
  - (e) Supervise the testing of Apprentices and Journeymen.
  - (f) To establish rules, regulations, and training standards for the apprentice.
  - (g) To implement disciplinary action within the rules and regulations.
  - (h) The JATC will determine through discussions with the appropriate governing agencies the length and breadths of training required for floor covering installers and also determine the costs of funding such a training program for Journeymen and installers.
3. Apprentices may be employed only in accordance with standards as set forth by the Joint Apprenticeship and Training Committee.
  4. No Apprentice shall be hired by any Employer until both the shop and the Apprentice have been approved by the Joint Apprenticeship Committee.
  5. The contribution rate shall be set forth in Schedule A and shall be paid on all hours worked.

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## **ARTICLE 16**

### **HEALTH AND WELFARE FUNDS**

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1. There has been established a Health and Welfare Fund. The detailed basis of the administration of the Health and Welfare Fund shall be pursuant to the Agreement and trust declarations adopted by the Associations, Independent Floor Covering Employers and the Union, which shall be binding upon all Employers signatory to or bound by this Agreement.
2. The Employer hereby agrees to be bound as a party to the terms and provisions of the trust establishing the Health and Welfare Trust Fund, and said Agreement is made part hereof by reference. The Employer acknowledges receipt of the trust agreement for said fund, and irrevocably appoints and designates the present Employer trustees and their successors as its agents.
3. The contribution rate shall be set forth in Schedule A and shall be paid on all hours worked.

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## **ARTICLE 17**

### **INDUSTRY FUND**

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1. There has been established two (2) Regional Industry Funds for the purpose of improving industry relationships within and related to the floor covering industry. The detailed basis of the administration of the new Industry Fund shall be pursuant to the agreement and trust declaration adopted by the Floor Covering Associations; Central Coast Counties Floor Covering Association and the Northern California Flooring Association which shall be binding upon all Employers signatory to or bound by this Agreement.

2. Any fund merger agreement must establish equal trustee representation from the two (2) areas of Region 1 Employers whose primary place of business is located within the counties of Alameda, Contra Costa, Napa, Solano, San Mateo, San Francisco, Marin, Sonoma, Mariposa, Lake and Mendocino, and Region 2 Employers whose primary place of business is located within the counties of Santa Clara, San Benito, Santa Cruz and Monterey.
3. The creation of said Industry Funds, and trust declarations and their administration and organization shall be solely the responsibility of the Employers and they shall be operated for the improvement and betterment of the industry which shall include but not be limited to, studies which may be made of the economic and other factors affecting the entire floor covering industry in the area within the scope of this Agreement. No part of the contributions to said funds shall be used for partisan political or anti-union activity.
4. No part of the contributions to the Industry Funds shall be used, either directly or indirectly, for collective bargaining and/or negotiations of collective bargaining agreements which are inimical to the Union. The Industry Funds shall be used and expended solely for the purposes and objectives set forth in the various agreements and declarations of trust, establishing the Industry Funds. The Industry Funds referred hereto shall be audited at least once annually by a certified public accountant, and copy of said audit shall be available.
5. The Employer's contribution to the Industry Fund shall be twenty three cents (\$0.23) per hour worked and shall be set forth in Schedule A.

## **ARTICLE 18**

### **RETIREMENT PLANS**

1. There are two (2) retirement plans established and recognized under this Agreement into which Employers may contribute to provide a retirement benefit for their employees. Participation by an employee in one or both of these plans depends upon the employee's classification as described in Section 2 herein. The two (2) retirement plans are the following:

- (a) There has heretofore been established and there is presently in effect the RESILIENT FLOOR COVERING PENSION FUND and the master trust declaration for the RESILIENT FLOOR COVERING PENSION FUND dated December 24, 1958, as amended (hereinafter referred to as Plan A). The Employer hereby agrees to be bound as a party by all the terms and provisions of the Master Trust Declaration for the Resilient Floor Covering Pension Fund, restated as of June 12, 1976, as amended, establishing the Resilient Floor Covering Pension Fund, and said Agreement is made a part hereof by reference. Each Employer party hereto acknowledges receipt of the Trust Agreement for said Fund.
- (b) There has heretofore been established and there is presently in effect the CENTRAL COAST COUNTIES FLOOR COVERING INDUSTRY PENSION FUND and the Trust Agreement for the CENTRAL COAST COUNTIES FLOOR COVERING INDUSTRY PENSION FUND effective August 1, 1990, as amended (hereinafter referred to as Plan B). The Employer hereby agrees to be bound as a party by all the terms

and provisions of the Trust Agreement for the Central Coast Counties Floor Covering Industry Pension Fund, and said Agreement is made a part hereof by reference. Each Employer party hereto acknowledges receipt of the Trust Agreement for said Fund.

- 2. There are three (3) classifications of employees: Journeymen, Apprentice and Floor Covering Handler whom are covered under this Agreement for the purpose of determining the pension contributions to Plan A and Plan B. Applications for classification designations shall be submitted to the Administrator and classification designations processed by the Administrator. The classification designation shall be as follows:
  - (a) Class A employees shall consist of all employees whose total retirement contribution provided for in Schedule A shall be contributed to Plan A.
  - (b) Class B employees shall consist of all employees whose total pension contribution provided for in Schedule A shall be divided between Plan A and Plan B.
  - (c) Each employee shall submit to the Trust Fund Administrator any classification change no later than December 2nd of each year, unless the employee is dispatched to their first job at which time he or she shall be entitled to designate a classification. The Trust Fund Administrator shall make the appropriate allocation to Plan A, or to Plan A and Plan B, as designated by the employee. In no event shall a classification change be implemented except by proper notification from the employee to the Trust Fund Administrator, and no more than one (1) classification change may be effected during any contract year.

3. There has heretofore been established and there is presently in effect the RESILIENT FLOOR COVERING EXCESS BENEFIT PLAN and the Trust Agreement for the RESILIENT FLOOR COVERING EXCESS BENEFIT PLAN effective August 1, 1990, as amended. The Employer hereby agrees to be bound as a party by all the terms and provisions of the Trust Agreement for the RESILIENT FLOOR COVERING EXCESS BENEFIT PLAN, and said Agreement is made a part hereof by reference. Each Employer party hereto acknowledges receipt of the Trust Agreement for said Fund.
4. Said plans shall continue to be jointly administered through Boards of Trustees established pursuant to said declarations of trust as the same may have been heretofore amended and may hereafter be amended from time to time, until the expiration thereof. Each Employer, signatory hereto, irrevocably appoints and designates the Employer trustees as his agents. Said declarations of trust as so amended shall be binding upon each Employer, party hereto, and the Union, party hereto, and the benefits thereof shall insure to the persons qualifying there under.
5. The Contribution rate shall be set forth in Schedule A and shall be paid on all hours worked.

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## ARTICLE 19

### TRUST FUND ADMINISTRATION

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1. In the event that a signatory Employer becomes delinquent in the payment of Trust Fund obligations, said contractor shall be given a ten (10) day notice by the Trust Fund Administrator to correct said delinquency, and if said delinquency is not corrected as specified, the Employer shall, in addition to correcting said delinquency and prior to being authorized

to receive dispatch of employees under this Agreement, said Employer shall post with the Trust Funds Administrator a Surety Bond, cash or other security acceptable to the Trust Fund Trustees, in the amount of Ten Thousand Dollars (\$10,000) for 0-10 employees, Thirty Thousand Dollars (\$30,000) for 11-30 employees and Sixty Thousand Dollars (\$60,000) for 31 employees and up, to guarantee any deficiency of such employer in the payment of wages, health and welfare and other fringe benefits or monetary obligations that are duly imposed under the provisions of this Agreement for a period of twelve (12) months. The number of employees per employer shall be based on the average number of employees reported to the Trust Funds during the preceding three (3) month period.

2. The Trust Fund heretofore established for Health and Welfare, Pensions, Apprenticeship, Industry Fund and the procedures for Dues Check-Off are hereby continued for each of the Trusts and procedures existing under the collective bargaining agreements between the Associations, independent floor covering Employers and the Union. Each Employer party hereto acknowledges receipt of the Trust Agreements for each of said Trust Funds.
3. The terms of such Trust Agreements are incorporated herein by reference.
4. Each Employer signatory hereto irrevocably designates the Central Coast Counties Floor Covering Association and the Northern California Floor Covering Association as his attorney-in-fact for the appointment and removal of Management Trustees for each of the Trusts. All new trustees appointed by the Employers shall be signatory to the collective bargaining agreement and report a minimum of three hundred sixty (360) hours of employee benefits during any 90 day (3 month) period. All Trustees representing labor shall be appointed in accordance with District Council No. 16 Bylaws.

5. The individual Employer further and additionally agrees to pay all reasonable costs and attorney's fees necessary and incurred to collect any amount due hereunder in the event of the default in performance by the Employer hereunder, including collection of sums due hereunder by demand or suit on the surety bond.
6. Either the Union or the Trustees of a Trust established or existing for receipts of monies collected hereunder may commence action in law or equity to enforce the collection of any amounts due or that become due under this Agreement or any Trust Agreement established pursuant to the terms of this Agreement.
7. All contributions required hereunder are due and payable on the fifteenth (15th) day of the month following the month in which the work is performed. Contributions received after the fifteenth (15th) day of the month following that in which the work was performed shall be delinquent. If reports or payment of all contributions are not received by the twentieth (20th) day following the end of the calendar month in which the work was performed, the default of performance by the Employer shall be a substantial breach of this Agreement, and the following remedies and action may be taken within the discretion of the Union.
  - (a) This Contract and Agreement may be suspended without further notice whatsoever following twenty-four (24) hour written notice from the Union or the Trust Fund to said defaulting Employer.
  - (b) The Union may remove and recall all employees of the defaulting Employer pursuant to the terms of this Agreement and require that no employees shall work for said defaulting Employer unless said Employer is reinstated.

8. All reasonable expenses and cost of litigation incurred by the Union or the trustees, or any duly authorized agent thereof, as well as all reasonable attorney(s)' fees in the event of litigation shall be an additional liability and shall be payable by the defaulting Employer.
9. The parties mutually recognize the fact that the failure or refusal of an Employer to comply with this Agreement in a timely manner creates an unfair advantage, endangers the continued purpose of this Agreement, and defeats the purposes for which this Agreement has been made through the collective bargaining process. Because it would be extremely difficult and impractical, if not impossible to fix the actual damages for breach apart from the actual costs and expense of accounting, collection and litigation, the Employer signatory agrees to pay all penalties as prescribed in the applicable trust document in regards to all such breaches.
10. All contributions to Trust Funds shall be payable to the designated depository in one (1) check.

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**ARTICLE 20**  
**NO LOCK-OUT OR**  
**STRIKE CLAUSE**

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1. During the term of this Agreement, there shall be no lock-out by the Employer, nor any strike, sit-down, refusal to work, stoppage of work, slowdown, retarding or production or picketing of the Employer on the part of the Union or its representative, or on the part of an employee of the Employers unless provided for elsewhere in this Agreement.



2. It is mutually understood and agreed that neither Associations, the Northern California Floor Covering Association and the Central Coast Counties Floor Covering Association and any independent Employer, or the Union shall be liable for damages caused by the acts or conduct of any individual or group of individuals who are acting or conducting themselves in violation of the terms of this Agreement without authority of the respective, provided such action or conduct has not been specifically authorized, participated in, fomented, or condoned by the Associations, any Employer, or the Union, as the case may be.

## **ARTICLE 21**

### **PAY DAY**

1. The Employer shall notify each new employee of the pay period, pay day, and method of payment. Employees shall be paid weekly and no more than three (3) business days may be held back. No employee will be required to pick up his pay check on a non-working day or outside of normal working hours.
2. Any employee who is fired or laid-off due to lack of work shall be paid immediately, and any employee who quits shall be paid at the office of the Employer within seventy-two (72) hours.
3. In the event of a strike, the unpaid wages of striking employees shall be due and payable in full the next regular pay day.
4. If an Employer does not have an office within the jurisdiction covered by this Agreement, the employee shall be paid at the office of the appropriate Local Union.

5. Each employee shall be provided a receipt or check stub indicating straight time hours, overtime hours, travel time, mileage and other reimbursements, amounts of vacation and holiday pay contributed to the Trust Funds and any and all deductions made from the employee's check each time the employee is paid. Each check stub or receipt is to display dates and pay period it covers.
6. Any procedures for the payment of wages not set forth in this Section shall be governed by the California State Labor Code.
7. It shall not be considered a violation of the no-strike clause of this Agreement for the Union to withdraw workmen from any Employer, if after twenty-four (24) hours after demand has been made upon the Employer:
  - (a) The Employer fails to make payment of undisputed wages due to workmen.
  - (b) The Employer fails to make payment of fringe benefit contributions.
  - (c) The Employer fails or refuses to file contribution report forms.
  - (d) The Employer tenders a check in payment of wages or fringe benefit contributions due, and upon presentation for payment to the bank or depository on which it is drawn, payment is not made.
  - (e) The Employer fails or refuses to acknowledge properly presented notice of violation.
8. For employees requested to report to the job site, all paychecks will be delivered to the job site on pay day.

## **ARTICLE 22 CHECK-OFF**

1. Each Employer hereby agrees to deduct from the wages of any employee employed by such Employer during the balance of the term of this Agreement special administrative dues in such amount per hour as certified in writing by the Union for each hour worked and to remit such sums to the appropriate depository designated by the Union no later than the fifteenth (15th) day of each and every month.
2. The Union shall indemnify the Employer against any and all liability that may arise out of actions taken or not taken by the Union pursuant to the provisions of this Section.

## **ARTICLE 23 GRIEVANCE AND ARBITRATION**

### **1. Definition and Procedure**

For all purposes of this Agreement, a grievance is any dispute or controversy between the Company, the Union and the employee covered by this Agreement, involving the meaning, interpretation or application of the provisions of this Agreement.

### **2. Procedures**

Such grievances shall be handled in the following manner:

- (a) The aggrieved employee or Union representative shall present the grievance in writing to the designated representative of the company and shall meet with that representative to discuss the grievance.

- (b) If no settlement or resolution is reached within ten (10) working days after the meeting referenced above, it may be submitted, at the request of either party, to arbitration by written notice to the other party within fifteen (15) working days from the date of the above-referenced meeting.

### **3. Arbitrator**

If the parties cannot reach agreement on selecting an impartial arbitrator, either the Union or the Company may request the State of California Conciliation Service to submit a list of five (5) arbitrators to the parties. The list shall contain only established arbitrators in the state of California. Each party shall alternately scratch two (2) names from the list, the first scratch being selected by lot, and the person remaining shall be the arbitrator.

### **4. Hearing**

The impartial arbitrator shall hold a hearing as soon as practicable, and shall issue an award which shall be final and binding upon the Union, the Company and any employee involved in the grievance or dispute.

### **5. Amend Agreement**

The arbitrator shall have no authority to amend, add or subtract from this Agreement, except where specifically authorized to do so by this Agreement.

### **6. Expenses for Arbitration**

The party losing the arbitration shall pay the arbitrator's charges. Cost of the hearing room shall be shared by both of the parties. The cost of the transcript, if requested by both parties, shall be shared equally. If there is any question as to who lost the arbitration, the arbitrator shall decide who shall pay the expenses of the arbitrator whether in whole or in part.

**7. Twelve Day Limit**

Matters not presented to the Employer or the Union in writing within a period of twelve (12) working days after the action, lack of action or condition constituting the basis of the complaint occurs, shall be deemed waived and shall not be subject to the grievance procedure or arbitration procedure as set forth above.

**8. Union Economic or Legal Action**

Such action shall be handled in the following manner:

- (a) In the event of a failure by the Employer to pay the wages or fringe benefits by this Agreement, and the Employer raises no question concerning the interpretation or operation of this Agreement, or concerning his obligation to pay, the Union may seek remedies as it sees fit with respect to the Employer and any economic action taken will not be considered a violation of this Agreement. However, the Union may, if so desires, utilize the provisions of this Section with respect to the Employer.
- (b) Before resorting to any economic remedy as above permitted, the Union must give the Employer involved ten (10) business days written notice of its intention to take such economic action. No economic action may be taken by the Union prior, if prior to concerning the interpretation or operation of this Agreement or concerning his obligation to pay wages or fringe benefits in dispute, and had deposited the full amount in dispute with the appropriate Trust Fund to be held by the Trust until the matter is resolved under the procedures set forth within.

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## **ARTICLE 24**

### **JOB REGISTRATION**

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The Employer shall register all competitively bid jobs to the central office of District Council No. 16 on mutually agreed upon forms. Said registration shall take place after the award of the project but in all cases prior to manning the job. The Employer need not register jobs which require less than one hundred twenty (120) man hours. District Council 16 acknowledges that all information gathered through the job registry shall remain confidential and shall not be disseminated other than in general terms.

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## **ARTICLE 25**

### **UNION OFFICIALS FOR ENFORCEMENT OF AGREEMENT**

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1. The Business Representative or duly authorized representative of the Union shall be allowed to visit the Employer's shop or jobs for the purpose of ascertaining whether or not this Agreement is being enforced. This right shall be exercised reasonably. The Company shall be notified at the commencement of a shop visit.
2. The Company will provide space on bulletin boards for posting notices of Union business. Such notices must be submitted to the Company for approval before posting.

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## **ARTICLE 26**

### **TRANSPORTATION**

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1. All Employers must furnish adequate transportation to all local and out-of-town jobs for their employees, and where transportation is furnished by the Employer it shall be safe and adequate and shall conform to the requirements of the California Motor Vehicle Department and applicable State Law.
2. Employees may be permitted to use their own vehicles for the purpose of transporting employees as provided for in Article 27. In every instance the Employer shall reimburse the employee at the current IRS rate per mile for all miles plus tolls and parking fees. The Employer shall cover all employees with industrial accident insurance protection to the full extent provided by the Workmen's Compensation Laws of the State of California, and shall carry public liability, fire, theft, and comprehensive and property damage automobile insurance covering the Employer and the employee owner of the vehicle for any accident occurring during the use of said vehicle. These provisions shall also apply where the vehicle owned by the employee is used by others in the course of the Employer's business.
3. All mileage fees are to be paid by separate check or shown as a separate item on a paycheck.
4. It shall be optional with the employees whether they will use their own vehicle for such transportation and any employee who does not wish to use his vehicle will not be discriminated against by the Employer.
5. All vehicles shall comply with the State safety regulations.

6. Employees operating a vehicle shall have a valid current operator's license applicable to such vehicle.
7. Employees will not be permitted to transport materials or shop supplied equipment to or from the job site in anything other than a company supplied vehicle.

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## **ARTICLE 27**

### **TRAVEL TIME, TRAVEL EXPENSES & SUBSISTENCE**

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#### **1. Travel Time**

Employees required to jobsite report more than twenty five (25) miles from the point of dispatch (employee's home or individual Employer's shop) as determined by the individual Employer, shall receive Wages and Benefits for all time spent traveling beyond twenty five (25) miles from the point of dispatch to the jobsite and return. Employees reporting in their private vehicles to a jobsite more than twenty five (25) miles from the point of dispatch, shall also receive mileage at the current IRS rate per mile for all miles traveled outside of the twenty five (25) miles. (Mileage and drive time is to be based on Microsoft MapPoint 2004 or latest available version.) Mileage will be paid on a per vehicle basis. This system is based on employees reporting to their jobsite at their regular start time and working on the job until their regular quitting time. Travel from jobsite to jobsite in a private vehicle shall be considered as hours worked and mileage will be reimbursed at the current IRS rate per mile. All travel commencing after reporting to the Employers shop to and from the jobsite will be considered as hours worked and

use of the employee's vehicle will be reimbursed at the current IRS rate per mile. At no time shall the employee be allowed to transport the Employer's material or equipment in his own vehicle.

## 2. Subsistence

- (a) When employees are required to live away from their personal place of residence, in order to report for work when and where directed by the Employer, each employee shall receive lodging, or an amount equal to reasonable lodging, in advance, plus Subsistence in the amount of seventy-five dollars (\$75.00) per day, in advance, on a separate check.
- (b) Round trip airfare, mileage, or transportation shall be provided by the Employer on all jobs in which subsistence is required.
- (c) Employees shall receive Travel Time, from the point of dispatch to the jobsite and return, on all jobs in which subsistence is required.

## 3. Travel Time Spread Sheet

The following Travel Time Calculation Sheet shall be used in conjunction with Microsoft MapPoint in order to determine Travel Reimbursement and Fringe Benefits contributions. Microsoft MapPoint setting for Driving Speeds shall be; Interstate Highways – 65 mph, Limited Access Highways – 60 mph, Other Highways – 50 mph, Arterial Roads – 35 mph, Streets – 20 mph.

**Travel Time Calculation Sheet (Formulas)**

Employee Name	From: Starting Address To: Destination Address		Minutes Per Mile Calculation = (Minutes ÷ Miles)	
	Minutes (Enter minutes as per MapPoint)	Miles (Enter miles as per MapPoint)	Calculation = (Actual Commute Miles - 25)	Calculation = (Adjusted Commute Miles x 2)
Actual Commute (One Way)	Calculation = (Adjusted Commute Miles x Minutes Per Miles)			
Adjusted Commute (One Way)	Calculation = (Adjusted Commute Minutes x 2)			
Round Trip	Calculation = (Round Trip Minutes rounded to the nearest 1/4 hour)			
Daily Travel Time/Mileage Reimbursement:				



Travel Time Calculation Sheet (Example)

John Doe	From:	123 Any Street, San Francisco, CA		
	To:	456 Main Street, Fremont, CA		
		Minutes	Miles	Minutes Per Mile
	Actual Commute (One Way)	52.00	36.70	1.42
	Adjusted Commute (One Way)	16.61	11.70	
	Round Trip	33.22	23.40	
	Daily Travel Time/Mileage Reimbursement:	2/4	\$9.48	

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## ARTICLE 28 MARKING OF VEHICLES

1. All Employer's production vehicles shall be identified with permanently affixed company identification and/or Union Logo which shall be prominently displayed and readily visible from both sides of the vehicle. This will be the only acceptable vehicle from which a workman will be allowed to work. The cost of the logos shall be born by the Industry Fund.
2. It shall be the responsibility of the Employer to place and replace identification on all production vehicles. It shall be the Employer's responsibility to remove any identifying markings from vehicles no longer owned or used in the course of business.
3. Recognizing that conditions do occur when an Employer is temporarily in need of an extra vehicle, it is agreed that with prior notification to the Union, an Employer may use other vehicles owned by him or said firm or a commercially leased vehicle from recognized leasing agents such as Hertz, Avis, etc., for the transporting of workmen, tools, and materials.

## ARTICLE 29 PROJECT AGREEMENT

There may be established "Project Agreements" to cover the installation and repair of floor covering in connection with Building Trades Agreements, single and multi family units, and institutional agreements. This Agreement will define the project's location, working conditions for the employees and their rate of pay for such project work. The Union shall notify each of the

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signatory Associations by fax as to the terms of any "Project Agreement" within two (2) business days of its approval or execution.

### **ARTICLE 30 EQUALITY OF OPERATION**

1. Should the Union enter into a contract with any individual Employer, which is more favorable than this contract, then any Employer who establishes and operates in the same manner shall be eligible to apply for and receive the same contract. In the event a more favorable contract as above set forth is limited to a particular geographical area covered by this contract, then, and in that event, the paragraph shall apply only to work being performed in said geographical area. This clause shall not be applicable to work under project agreements or with respect to work existing in newly organized shops at the time such shops are organized. All signatory Employers will be notified within thirty (30) days in writing of any contracts signed.
2. For the purpose of organizing, Local Union 12 (District Council 16) may enter into an addendum to this Agreement using terms and conditions outside our Master Agreement allowing a new Employer to complete previously signed contracts or work in progress. Work in progress must comply with prevailing wage laws. Any Agreement entered into between Building Trade Councils and property owners, builders and developers must comply with the existing Master Agreement. All new work and contracts entered into after initial signing of the Master Agreement or addendum must be installed under the full terms and conditions of the Master Agreement.
3. The above addendum shall have a duration period of no longer than eighteen (18) months and shall only be offered to Employers with a business address in the geographical area covered by the Union.
4. The above stated addendum shall be a "one time only" offer per Employer and shall be used exclusively for the purpose as stated above.

### **ARTICLE 31 SALE OR ASSIGNMENT OF BUSINESS**

1. This Agreement, and any supplements or amendments thereto, hereinafter referred to collectively as "Agreement," shall be binding upon the parties hereto, their successors, administrators, executors, and assigns.
2. The Employer agrees that in the event the Employer's business, in whole or in part, is sold, leased, transferred or taken over by sale, transfer, lease, assignment, receivership or bankruptcy proceeding, such transferee business and operation shall expressly and in writing assume the terms and conditions of this Agreement for the life thereof.
3. It is understood by this provision that the parties hereto shall not use any leasing or other transfer device to a third party to evade this Agreement. It is further understood that the Employer will only transfer, assign, lease, etc., the business if the transferee agrees to accept and assume, in writing, the Agreement. The Employer shall give notice of the existence of this Agreement and this provision to any purchaser, transferee, lessee, assignee, etc., of the business and operation covered by this Agreement.

or any part thereof. Such notice shall be in writing with a copy to the Union, at the time the seller, transferor, or leaser, executes a contract or transaction as herein described. The Union shall also be advised of the exact nature of the transaction, not including financial details.

4. To protect and preserve, for the employees covered by this Agreement, all work they have performed and all work covered by this Agreement, and to prevent any device or subterfuge to avoid the protection and preservation of such work, it is agreed as follows: If the Employer performs on site construction work of the type covered by this Agreement, under its own name or the name of another, as a corporation, company, partnership, or other business entity, including a joint venture, wherein the Employer, through its officers, directors, partners, owners, or stockholders exercises directly or indirectly (through family members or otherwise) management, control, or majority ownership, the terms and conditions of this Agreement shall be applicable to all such work.
5. All charges of violations of Section 4 above shall be considered as a dispute and shall be processed in accordance with the provisions of this Agreement on the handling of grievances and the final binding resolution of disputes. As a remedy for violations of this Section, the Joint Trade Board or Arbitrator shall be able, at the request of the Union, to require an Employer to pay 1) to effected employees covered by this Agreement, including registered applicants for employment, the equivalent of wages those employees have lost because of the violations, and 2) into the affected Joint Trust Funds to which this Agreement requires contributions any delinquent contributions that resulted from the violations. The Joint Trade Board or Arbitrator shall be able also to provide any other appropriate remedies, whether

provided by law or this Agreement. The Union shall enforce a decision of the Joint Trade Board or Arbitrator under this Section only through arbitral, judicial or governmental (for example, the National Labor Relations Board) channels.

6. If, after an Employer has violated this Section, the Union and/or the Trustees of one (1) or more Joint Trust Funds to which this Agreement requires contributions, institute legal action to enforce an award by an Arbitrator or the Joint Trade Board remedying such violation, or defend an action that seeks to vacate such award, the Employer shall pay any accountants' and or attorneys' fees incurred by the Union and/or Joint Trust Funds, plus the costs of litigation, that have resulted from such legal action. This Section does not affect other remedies, whether provided by law or this Section, that may be available to the Union and/or the Joint Trust Funds.

## **ARTICLE 32 SAVINGS CLAUSE**

In the event that any provision of this Agreement is finally held or determined to be illegal or void by any applicable judgment or decree of a court of competent jurisdiction as being in violation of any law, ruling or regulation of any governmental authority or agency having jurisdiction of the subject matter of this Agreement, the remainder of the Agreement shall remain in full force and effect unless the parts so found to be void or illegal are wholly inseparable from the remaining portions of this Agreement. The Employer and the Union further agree that if and when any provision of this Agreement is held or determined to be illegal or void, they will promptly enter into negotiations concerning the substance thereof.

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### **ARTICLE 33**

### **WORK PRESERVATION FUND**

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1. There has been created a separate and independent entity, the Painting and Drywall Work Preservation Fund organized pursuant to the laws of the State of California, as a non-profit California Corporation. The purposes for which this corporation is formed are to expand the work and job available to signatory Employers and employees, and to advance and preserve the industry by promoting high standards and fair competition. These purposes are consistent with those established under the authority of the Labor Management Cooperation Act of 1978, USC Section 175(a) and 29 USC Section 186(c)(9).
2. The affairs of the Work Preservation Fund are governed by a Board of Directors comprised of equal members representing labor and management, plus one (1) neutral member, elected by a majority vote of the Board of Directors.
3. The Employer shall be obligated to pay for the Work Preservation Fund six cents (\$0.06) on each employee covered under this Agreement for each hour worked. A full hour contribution shall be paid on any portion of an hour worked. Pursuant to and under the terms of this Agreement, the Floor Covering Associations Trust Funds shall collect such contributions for the Work Preservation Fund and shall thereafter each month forward said monies to the Work Preservation Fund.
4. Appropriate records shall be kept and maintained by both the Floor Covering Associations and the Trust Funds and the Work Preservation Fund as to the collection, transmittal and amounts of funds collected on forms to be provided exclusively by the Floor

Covering Associations Trust Funds. The parties agree that the contributions shall be transmitted to the current administrator.

5. The contribution rate shall be set forth in Schedule A and shall be paid on all hours worked.

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### **ARTICLE 34**

### **LABOR MANAGEMENT**

### **COOPERATION INITIATIVE**

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1. There has been established a Labor Management Cooperation Initiative for the purpose of improving relationships within the floor covering and related industries. Effective, on the date of this Agreement, a minimum Employer contribution of five cents (\$0.05) per hour for all hours worked has been adopted by the Floor Covering Association, Central Coast Counties, the Northern California Flooring Association; on behalf of those of their regular members who have authorized their inclusion in the coverage of this Agreement and Employers whose primary place of business is located within the jurisdiction of the Union and will be binding upon all Employers signatory to or bound by this Agreement.
2. The contribution rate shall be set forth in Schedule A and shall be paid on all hours worked.

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**ARTICLE 35**  
**VOLUNTARY PAYROLL DEDUCTION**  
**OF POLITICAL CONTRIBUTIONS**

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1. Each Member hereby authorizes and directs the employers to deduct from their pay the sum of five cents (\$0.05) for each hour worked, as a contribution to the Political Action Together – Political Committee (PAT-PC) of the International Union of Painters and Allied Trades. Each Employer agrees to make payments to the Political Action Together – Political Committee (PAT-PC) of the International Union of Painters and Allied Trades for each employee covered by this Agreement, as follows:
- (a) For each hour or portion thereof, for which an employee receives pay, the Employer shall make a contribution of five cents (\$0.05) to PAT-PC.
- (b) For the purpose of this Article, each hour paid for, including hours attributable to show up time, and other hours for which pay is received by the employee in accordance with this Agreement, shall be counted as hours for which contributions are payable.
- (c) Contributions shall be paid on behalf of any employee starting with the employee's first day of employment in a job classification covered by this Agreement. This includes, but is not limited to, apprentices, trainees, and probationary employees.

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**ARTICLE 36**  
**DURATION OF AGREEMENT**

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This Agreement shall be in full force and effective from July 1, 2005 through June 30, 2008 and shall continue thereafter from year to year unless either party serves written notice upon the other at least sixty (60) days prior to July 1 of any subsequent year of its desire to amend, modify or terminate this Agreement.

**WE HEREBY AGREE TO THE**  
**TERMS AND CONDITIONS**  
**STATED HEREIN:**

**District Council #16**

Print Name: \_\_\_\_\_

Sign Name: \_\_\_\_\_

Date: \_\_\_\_\_

Company: \_\_\_\_\_

Print Name: \_\_\_\_\_

Sign Name: \_\_\_\_\_

Date: \_\_\_\_\_



**NOTES**